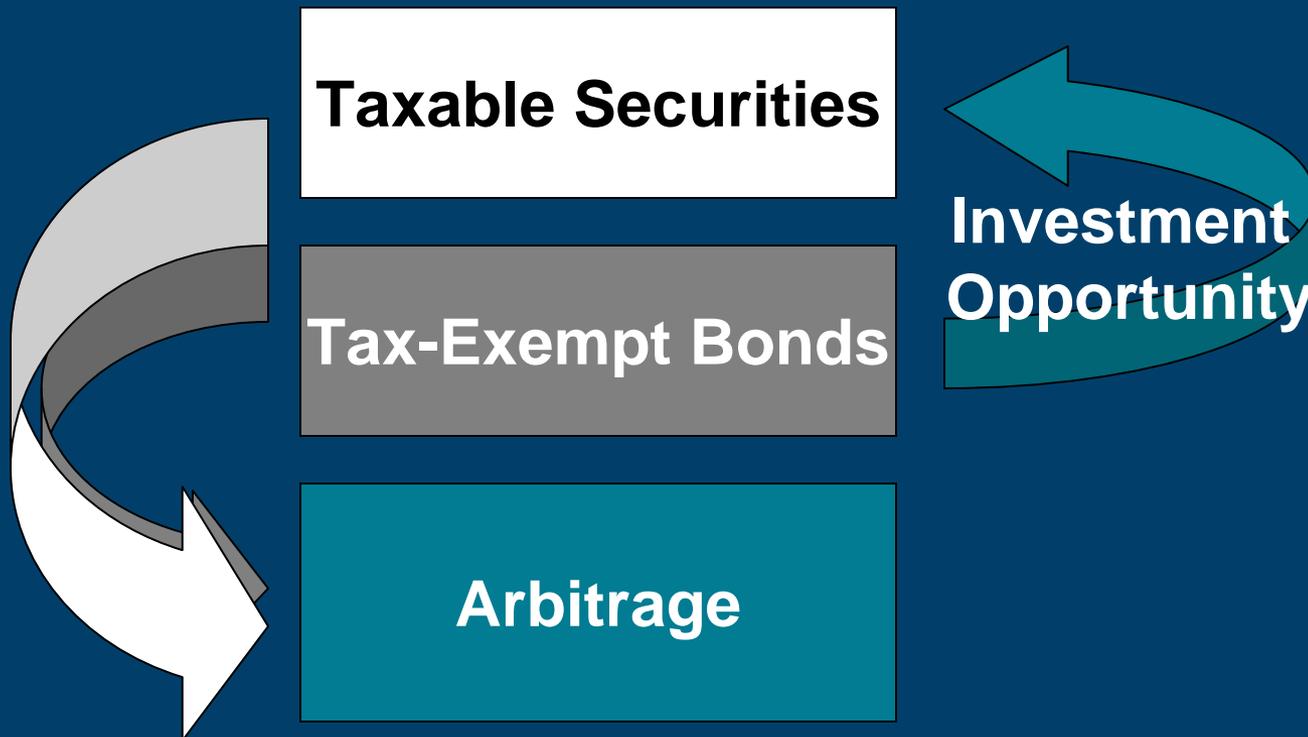




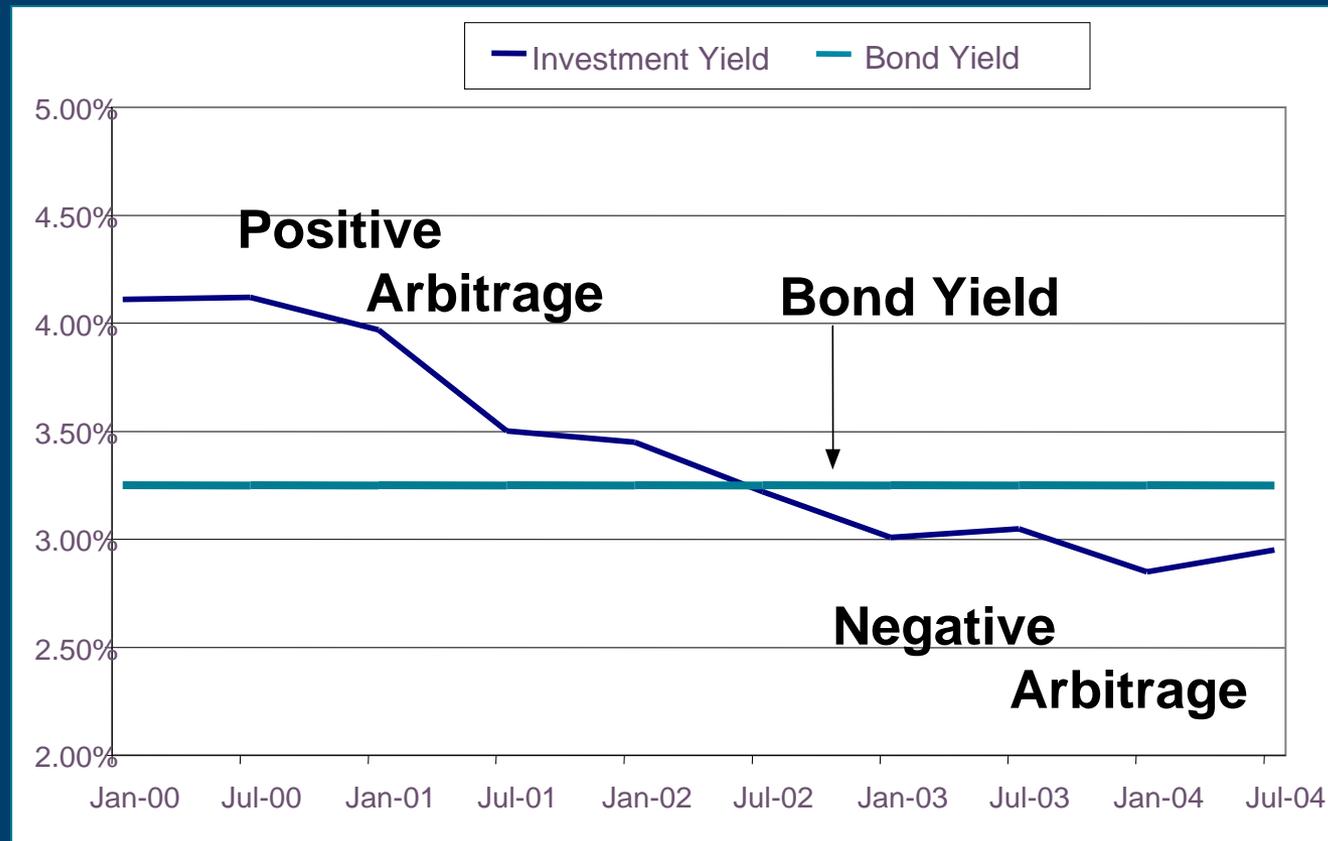
# Understanding Arbitrage Rebate

Presented By: James Ward

# What is Arbitrage Rebate?



# Graphic Illustration of Arbitrage



# ***Two Sets of Rules***

## Arbitrage Rebate

Compares Yield on  
Investments  
to  
Interest Paid  
to Bondholders

## Yield Restriction

Limits  
Investment Yield  
to  
Bond Yield

# Multiple Exceptions

## Arbitrage Rebate

- Small issuer
- Spending Exceptions
  - 6 months
  - 18 months
  - 24 months
- Bona fide debt service

## Yield Restriction

- Temporary Periods
  - 13 months
  - 3 years
- Reserve Funds
- Escrows Funds

# Arbitrage Rebate Reporting & Payment

# ***Required Documents***

- Official Statement
- Tax Certificate
  - 8038G
- Trust Indenture
- Escrow Verification Report (Refundings Only)
- Cash flow transactions/ Asset Statements
- SWAP Agreement

# Fund Analysis

Tracking proceed investment by fund provides easy audit.

Cash flow analysis helps to meet expenditure tests.

Fund/Account:      Costs of Issuance		Exhibit C				
<b>Public Financing Authority</b>						
<b>1997 Lease Revenue Bonds</b>						
					Delivery Date	09-Oct-97
					<b>Computation Date</b>	<b>01-Oct-02</b>
					<b>Arbitrage Yield</b>	<b>4.53195524%</b>
					Investment Yield	5.06061283%
					Total Earnings	\$      582.63
Date	Receipts	Payments	Earnings	Balance	Future Value	
09-Oct-97	\$ 69,242.82	\$ 0.00	\$ 0.00	\$ 69,242.82	\$ (86,547.39)	
09-Oct-97		(3,780.00)		65,462.82	4,724.67	
09-Oct-97		(6,104.68)		59,358.14	7,630.31	
09-Oct-97		(29,994.62)		29,363.52	37,490.62	
27-Oct-97		(4,500.00)		24,863.52	5,612.01	
03-Nov-97			85.53	24,949.05		
04-Nov-97		(85.53)		24,863.52	106.57	
01-Dec-97			103.15	24,966.67		
02-Dec-97		(103.15)		24,863.52	128.08	
02-Jan-98			106.59	24,970.11		
05-Jan-98		(106.59)		24,863.52	131.81	
02-Feb-98			106.35	24,969.87		
02-Feb-98		(106.35)		24,863.52	131.07	
24-Feb-98		(6,800.00)		18,063.52	8,357.76	
02-Mar-98		(4,000.00)		14,063.52	4,911.43	
02-Mar-98			91.38	14,154.90		
03-Mar-98		(91.38)		14,063.52	112.19	
01-Apr-98			60.71	14,124.23		
02-Apr-98		(60.71)		14,063.52	74.27	
15-Apr-98		(14,063.52)		0.00	17,175.83	
01-May-98			28.92	28.92		
04-May-98		(28.92)		0.00	35.24	
<b>Total Rebatable Arbitrage</b>					<b>\$</b>	<b>74.46</b>

# Calculation Summary

Snapshot analysis puts critical detail at your finger tips.

## CALCULATION SUMMARY

**Public Financing Authority**  
**1997 Lease Revenue Bonds**  
**\$2,620,000.00**

**Arbitrage Yield:** 4.53195524%  
**Final Maturity Date:** October 1, 2007

**Arbitrage Rebate Liability**  
**For the Period October 9, 1997 – October 1, 2002**

Costs of Issuance	\$ 74.46
Site Lease Payment	5,108.91
Reserve	19,884.06
FV Computation Date Credit – 10/01/98	(1,196.33)
FV Computation Date Credit – 10/01/99	(1,143.90)
FV Computation Date Credit – 10/01/00	(1,093.77)
FV Computation Date Credit – 10/01/01	(1,045.83)
Computation Date Credit – 10/01/02	(1,000.00)
<b>Total</b>	<b>\$ 19,587.60</b>
<b>Rebate Liability (90% of Total)</b>	<b>\$ 17,628.84</b>

**Balance of Funds/Accounts**  
**Subject to Rebate Requirement**  
**As of October 1, 2002**

Reserve	\$ 269,672.63
<b>Total</b>	<b>\$ 269,672.63</b>

# Compliance Monitoring

## Agency Arbitrage Rebate Compliance Summary as of 1/31/04

Issue Date	Original Principal	Issue Name	Last Report	Liability	Next Report
10/07/1993	\$2,405,000.00	Peacock Gap Refunding	10/01/1998	(\$26,061.00)	10/01/2003
01/28/1997	\$5,250,000.00	1997 Revenue Bonds	05/31/2003	(\$42,382.16)	01/28/2007
06/30/1999	\$23,504,004.00	1999 TAB	06/30/2003	\$215,345.89	06/30/2004
12/06/2001	\$3,220,000.00	2001 Revenue, Series A	---	---	12/06/2006
10/20/2002	\$25,020,000.00	TARB Series 2002	---	---	10/20/2007
04/17/2003	\$7,605,000.00	2003 Lease Revenue Bonds	---	---	04/17/2008

# Computation Schedules

- Annual calculation on all variable rate issues and fixed rate bonds that have accrued liabilities.
- 1<sup>st</sup> year, 3<sup>rd</sup> year, 5<sup>th</sup> year schedule for fixed rate bonds with no accruing liability.
- Minimum computation schedule, every 5 years.

# ***IRS Form 8038-T***

- Form 8038-T only filed when there is a positive liability and/or yield reduction payment needed.
- Check payable to US Treasury.
- Mail rebate or yield reduction payment to IRS Center in Ogden, UT.

# ***Payment Requirements***

- **Installment Dates**
  - Every 5 years from issue date or bond year
  - Bond year election – first year can be shorter than a year
  - 90% payments due within 60 days
- **Final Maturity**
  - Date bonds matured or redeemed early
  - 100% payment due within 60 days

# Refund Requests

# ***Filing for a Refund***

- Use Form 8038R for filing.
- Overpayment of less than \$5,000 may not be recovered before the final computation date.
- Overpayment is limited to actual dollars paid.

# ***Refund Rules***

- 1992 Regulations
  - Generally applies to bonds issued prior to 6/30/93.
  - Only permits refunds caused by mathematical errors.
- 1993 Regulations
  - Permits refunds whenever an overpayment can be demonstrated.

# Calculating Arbitrage Rebate

# Overview

- Section 148 is the principal Code section governing arbitrage rebate.
- Other provisions are found in Section 103, 149 & 150.
- Specific requirements for applying the rebate rules are complex and often open to interpretation.

## Overview (cont.)

- The computation uses a “future value” method for computing arbitrage rebate.
- All transactions must be at market rate.
- Issuers may not manipulate the rate in order to decrease the amount of receipts, or increase the purchase price to avoid rebate.

# ***Computation of Bond Yield***

- Fixed Rate Bond
- Variable Rate Bond

# ***Valuation of Investments***

- Fair Market Value Approach
- Present Value Approach

# Exceptions to Rebate

# ***Exceptions to Rebate***

- Small Issuer Exception
- Spending Exceptions
- Bona Fide Debt Service Funds

# ***Small Issuer Exception***

- General taxing powers
- Not “Private Activity” Bonds
- 95% or more proceeds used toward local government activities
- Aggregate tax-exempt debt must not exceed \$5 million within a calendar year

# ***Small Issuer Exception for Schools***

- January 1, 1998 limit increased to \$10 million
- January 1, 2002 limit increased to \$15 million
  - \$10 million must be used for construction of public school facilities
  - \$5 million for non-construction purposes

# ***Spending Exceptions***

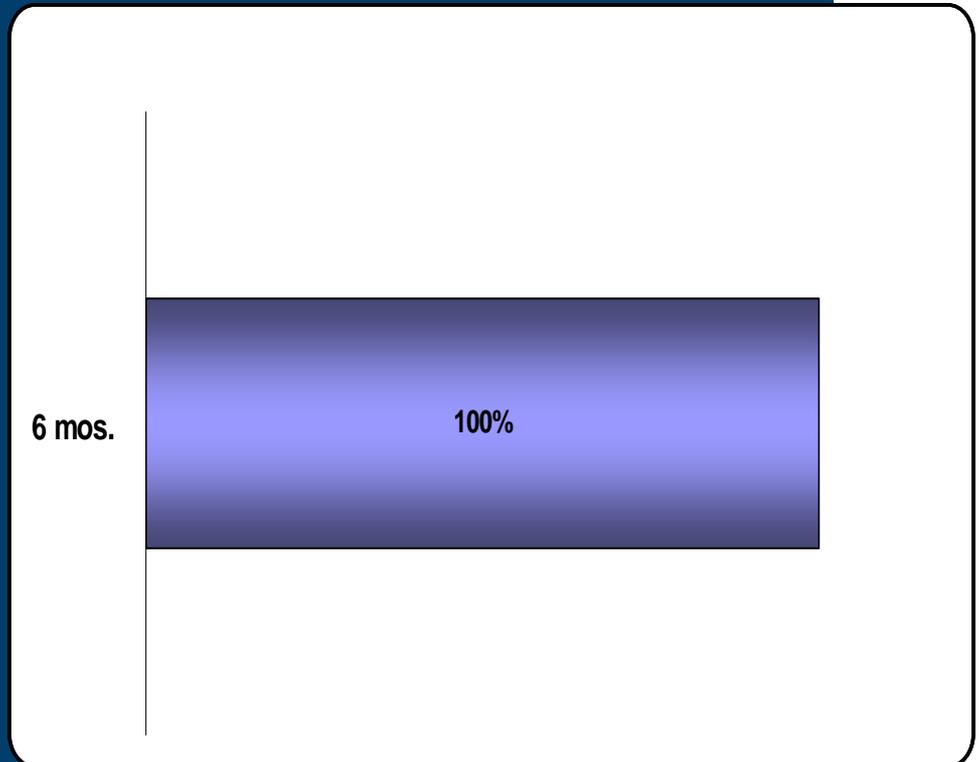
- Six Month Spending Exception
- Eighteen Month Spending Exception
- Twenty-Four Month Spending Exception

# Six Month Exception

Applies to any type of tax-exempt issue

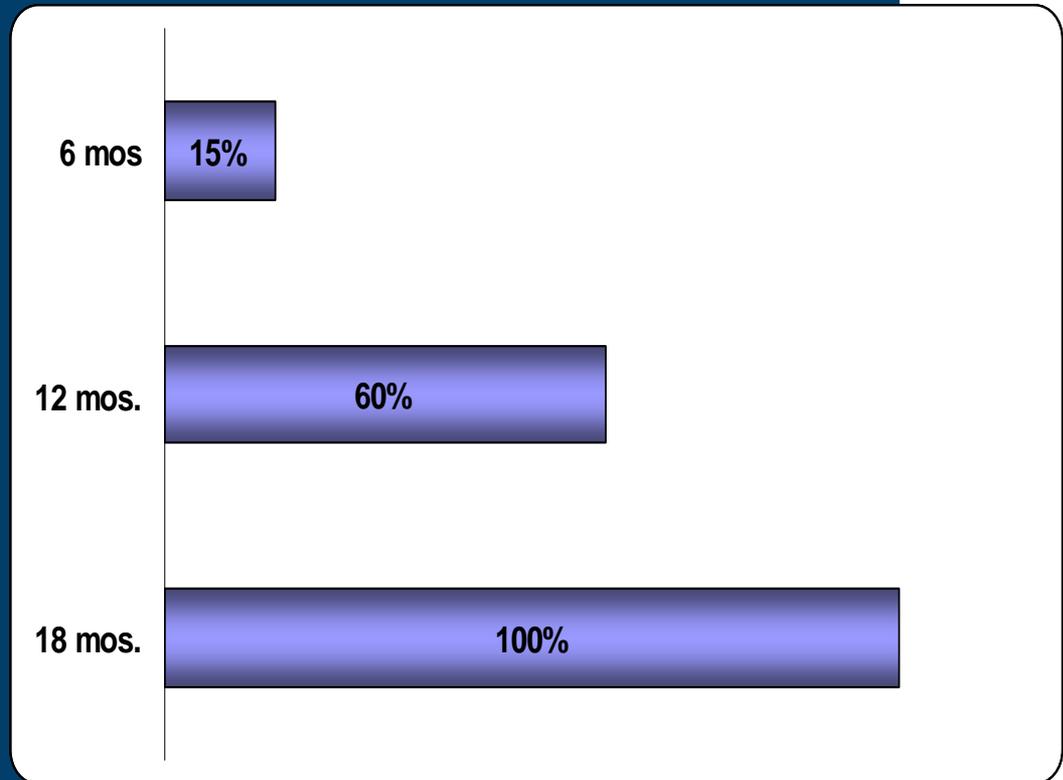
501(c)(3) have additional 6 months to spend 5% of proceeds

Private activity bonds are not afforded the additional 6 months



# ***Eighteen Month Exception***

Applies to any type of tax-exempt issuance for a capital project including industrial bonds or qualified mortgage bonds

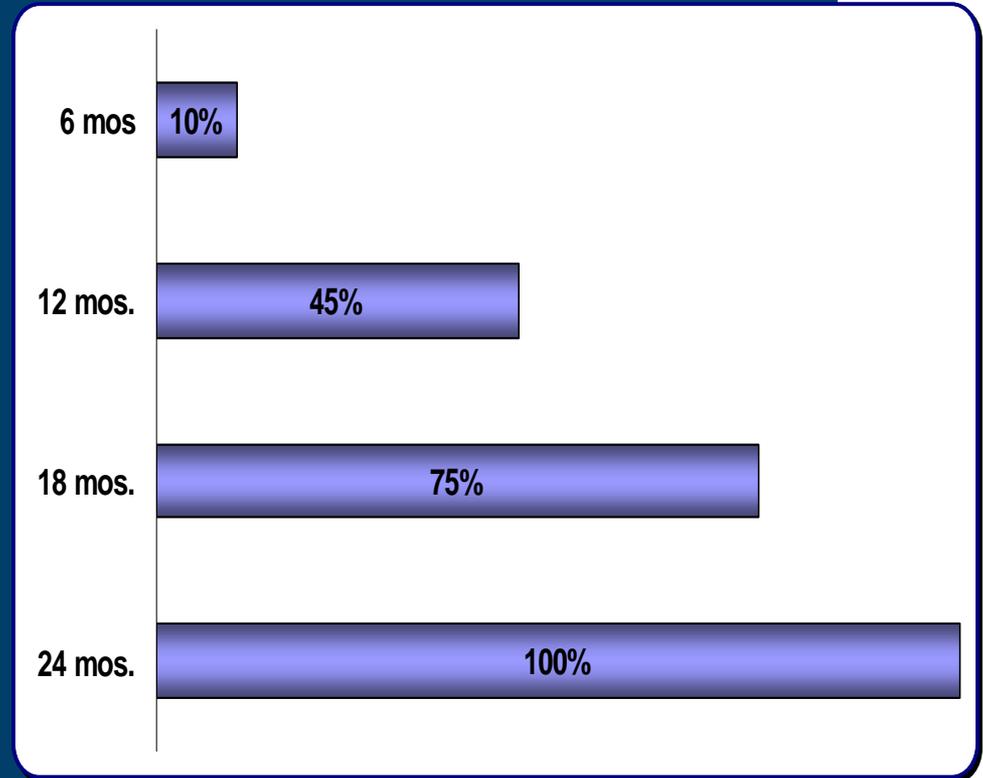


# Twenty-Four Month Exception

Governmental bonds, 501(c)(3), or private activity construction bonds.

75% of proceeds to be used for construction

Expenditures must be on property owned by a governmental unit or



# ***Bona Fide Debt Service Funds***

- Used primarily to match revenue and debt service in a bond year.
- Must deplete annually minus a reasonable carryover.

# Exceptions to Yield Restriction

# ***Exceptions to Yield Restriction***

- Temporary Periods
- Reasonably Required Reserve
- De Minimus Exception

# Temporary Periods

- Three Year Temporary Period
  - Project Funds, Capitalized Interest and Costs of Issuance qualify
  - Within six months from issue date, issuer incurs a substantial binding obligation to a third party to expend 5% of net sale proceeds.
  - 85% of net sale proceeds expended within three year period.

# ***Other Temporary Periods***

- Five Year Temporary Period
  - Substantial amount of construction expenditures on a complex construction project.
  - Issuer and licensed architect or engineer certifies that five year period is necessary to complete capital project.
- Working Capital Expenditures/Operating Expenses have thirteen months
- Pooled Financings
  - Six Month Period to loan out proceeds.
  - Repayments from loans have only three months.

# ***After the Temporary Period***

- Yield restrict remaining proceeds
- Yield reduction payment may be permitted under 1993 Regulations

# ***Reasonable Required Reserve***

- Should not exceed the lesser of
  - 10% of principal amount
  - Maximum annual debt service
  - 125% of the average annual debt service
- Excess Reserve Portion
  - Must be funded from other source such as revenues, not sale proceeds
  - Excess amount must be yield restricted

# ***Yield Reduction Payments***

- 1993 administrative solution to yield restriction.
- Yield Reduction Payments (YRPs) are payments made to the IRS on yield restricted funds.
- Paid at same time and manner as a rebate payment.

# Common Errors

## ***Failure To:***

- Comply with both the arbitrage rebate and yield restriction regulations
- Pay on time
- Take into account all “Gross Proceeds”
- Verify the bond yield
- Understand the Spending Exceptions
- Remember a bond year election
- Consider the impact of a refunding

# Client Questionnaire

	Yes	No
Is this a tax-exempt bond?		
Do you have all the bond documents?		
Do you have historical cash flow records for all bond proceeds?		
Have you passed a required payment date?		
Have you had a prior computation?		
Were there any elections made?		

	Yes	No
What is the purpose of the issue?		
Is the issue an advance or current refunding issue?		
Is there a construction fund?		
Do you still have construction monies at the end of 3 years?		
Is the bond hedged or insured?		
Has a reserve fund been established?		

	Yes	No
Are the bonds fixed (F), variable (V), or auction (A) rate?		
Have the bonds been refunded?		
Were bond proceeds remaining at the time of the refunding?		
Are any funds commingled?		
Is there a parity reserve?		
Are you trying to meet a spending exception?		

# Questions